

Economic Impact Statement

LSA Document #08-318

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Description of Rule**

In 2008, Senate Enrolled Act 143 was enacted by the General Assembly to regulate retail establishments that sell paint or paint products. These retail establishments are now required to offer lead test kits for sale, provide literature to customers about lead paint hazards, and ensure employees are properly trained in providing advice to customers about lead hazards in paint and paint products. SEA 143 also provides that retail establishments that sell consumer products that contain or may contain lead must ensure those products do not exceed the standards imposed by the federal Hazardous Substances Act. The legislation authorizes the Indiana State Department of Health (ISDH) to conduct inspections of retail establishments, issue cease and desist orders, and seize items that violate this law. In addition, the legislation requires that the ISDH adopt rules that either establish exceptions under which items that contain lead may be sold, offered for sale, or distributed, or to require labeling or signage to reflect the item contains lead.

Along with the updating of sections of the rule for clarity and to reflect other additions in the current legislation, the proposed rule adds [410 IAC 29-5](#) to establish a requirement in retail establishments that offer for sale consumer products that contain or may contain lead that they either post a sign indicating this fact, or label the product clearly that it contains or may contain lead. Signs and labels must be in both English and Spanish and meet the required specifications as established in the proposed rule.

Economic Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

[IC 4-22-2.1-4](#) defines a small business as any person, firm, corporation, limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full-time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

Based on Secretary of State data, small retail businesses that meet this definition most likely number in the thousands throughout Indiana. It is not possible to accurately estimate how many of those retail businesses actually offer for sale consumer products that contain or may contain lead and, as a result, would become subject to this rule.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Small businesses will incur minimal costs for annual reporting, record keeping, or other administrative costs as a result of this rule. These costs will be the result of the legislative requirement that employees be properly trained to provide advice to customers about lead paint hazards. Businesses to which this provision applies will need to keep records of employee trainings to verify compliance.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

Small businesses will incur minimal costs if they choose to place the sign in their establishments. The cost of printing the requisite number of signs in both languages would be a one-time cost most likely not to exceed \$100. If a small business chooses to place labels on products, that cost would be totally dependent upon the number of items that would require such a label.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law.

This rule does not impose any additional requirements or costs on small businesses not expressly required by the authorizing statute.

5. Regulatory Flexibility Analysis

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

The least stringent means have been utilized in the rule.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Not applicable.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

Not applicable.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Not applicable.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

Senate Enrolled Act 143 specifically applies to all retailers of consumer products that contain or may contain lead.

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